

## **SECTION 3: DEVELOPMENT APPLICATION SUBMITTAL & PROCESSING PROCEDURES**

### **SECTION 3.01 PRE-SUBMITTAL MEETING**

- (a) **Option to Meet With City Staff.** Prior to the official submission of an application for review and consideration, the applicant(s) has the option to request and attend a Pre-Submittal Meeting with City staff.
- (b) **Meeting Request.** To schedule a pre-submittal meeting, the applicant shall make a request for a Pre-Submittal Meeting with Development Services, and such request shall describe the type of development desired and/or the type of application that the applicant intends to submit. The applicant shall then be notified by Development Services of the meeting time and place for the requested meeting.
- (c) **Vested Rights.** There shall be no vested rights based on a pre-submittal meeting.
- (d) **Effect.** Following the Pre-Submittal Meeting, the applicant may proceed with the submittal of an application.

### **SECTION 3.02 GENERAL APPLICATION CONTENTS**

- (a) **Application Contents Generally.** All applications shall be submitted on a form supplied by Development Services with the required information as stated on the application form. Incomplete applications shall not be accepted for filing and shall not be considered officially filed.
  - (1) **Application Timing.**
    - a. Development Services shall establish submittal deadlines for all applications decided by the Director of Development Services and by the Commission.
    - b. An application must be considered complete and officially filed in accordance with Section 3.03 of this Subdivision Ordinance prior to being processed for review and consideration.
  - (2) **Fees Required.** Every application shall be accompanied by the prescribed fees set forth in the City's fee schedule, as approved by City Council and as may be amended from time to time. The prescribed fee is not refundable.
  - (3) **Delinquent City Taxes on Property.** An application shall not be deemed complete, nor shall it be approved, if there are delinquent City taxes on the subject property.



(b) **Modification of Applications Prior to Approval.** The applicant may modify any complete application following its filing and prior to the expiration of the period during which the City is required to act on the application.

- (1) Modifications Requested by the City. If the modification is for revisions requested by the City, and the modification is received at least eleven (11) calendar days prior to the time scheduled for decision on the application, the application shall be decided within the original period for decision (from the original official filing date) prescribed by this Subdivision Ordinance.
- (2) Other Modifications In all other instances (e.g., when the applicant chooses to submit a revised application on his own accord because of a change in development decisions), submittal of a modified application shall be accompanied by a properly executed Waiver of Right to 30-Day Action (see Section 3.03(e)) in order to allow City staff adequate time to review the new information and modifications, and shall extend the time for deciding the application for a period equal to the time specified in this Subdivision Ordinance to decide the original application, commencing on the official filing date of the modified application.

### **SECTION 3.03 INITIATION, COMPLETE APPLICATION & EXPIRATION**

- (a) **Initiation by Owner.** An application required under this Subdivision Ordinance may be initiated only by the owner of the land subject to the application, or by the owner's duly authorized representative. If the applicant is a representative of the property owner, the application shall include a written and Notarized statement from the property owner, such as a duly executed "Power of Attorney", authorizing the representative to file the application on the owner's behalf.
- (b) **Applicability.** The procedures within this Section 3 shall apply to all applications that are required by the City and submitted in accordance with this Subdivision Ordinance.
- (c) **Determination of Completeness.** Every application shall be subject to a determination of completeness by the responsible official for processing the application. An application must be complete in order to be accepted for review by the City.
  - (1) The application shall only be accepted by the responsible official for processing when it is accompanied by all documents required by, and prepared in accordance with, the requirements of this Subdivision Ordinance. A typographical error shall not, by itself, constitute an incomplete application.
  - (2) A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Subdivision Ordinance.
  - (3) A determination of completeness of an application shall be conducted in accordance with the following procedures:
    - a. The applicant shall be notified in writing within ten (10) business days if the submitted application is incomplete. Such notice shall be served by depositing it in the U.S. Postal Service, or by electronic mail transmission, before the tenth (10<sup>th</sup>) business day following submission of the application.

- b. If the application is determined to be incomplete, the notification shall specify the documents or other information needed to complete the application, and shall state the date the application will expire (see Section 3.03(f)) if the documents or other information are not provided to the City.
  - c. An application shall be deemed complete on the eleventh (11<sup>th</sup>) business day after the application has been received if notice is not served in accordance with Section 3.03(c)(3)a.
  - d. If the application is determined to be complete, the application shall be processed as prescribed by this Subdivision Ordinance.
- (4) It is not guaranteed that an accepted, complete application will be approved, if after the application is deemed complete it is determined that the application does not comply with this Subdivision Ordinance.
- (d) **Re-Submittal After Notification of Incompleteness.** If the application is re-submitted after a notification of incompleteness, the application shall be processed upon receipt of the re-submittal. An additional determination of completeness shall be made thereafter as described in Section 3.03(c). The statutory 30-day time frame for plat approvals shall begin when the City deems the application is complete (see Section 3.03(g)).
- (e) **Waiver of Right to 30-Day Action.** The Director of Development Services shall be the responsible official for a Waiver of Right to 30-Day Action.
  - (1) Request. An applicant may submit in writing a Waiver of Right to 30-Day Action in relation to the decision time for plats of thirty (30) days, as mandated by State law.
  - (2) Received. If the applicant is requesting Waiver of Right to 30-Day Action, such Waiver of Right to 30-Day Action must be received by the Director of Development Services on or before the seventh (7<sup>th</sup>) calendar day prior to the Planning & Zoning Commission meeting at which action would have to be taken (based on the 30-day requirement in State law) on the application. Waiver requests that are not received by that day shall not be considered properly submitted, and action shall be taken on the application at such meeting as scheduled.
  - (3) Requirements Maintained. Submission of a Waiver of Right to 30-Day Action, and acceptance of such Waiver by the City as part of an application, shall not be deemed in any way a Waiver to any requirement within this Subdivision Ordinance. A Waiver from requirements herein is a separate and distinct process (see Section 9.01).
- (f) **Expiration of Application.**
  - (1) The application shall automatically expire at the close of business on the forty-fifth (45<sup>th</sup>) calendar day after the date the application is received, and it will be returned to the applicant together with any accompanying documents and materials, if:
    - a. The City provides to the applicant, not later than the tenth (10<sup>th</sup>) business day after the date the application is filed, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and



- b. The applicant fails to provide the specified documents or other information necessary to comply with the City's requirements relating to the application within the time provided in the notification.
- (2) An accepted application for which there has been no action taken by an applicant for ninety (90) calendar days shall be deemed expired and closed on the City's initiative.
  - a. If the application is of a type that can be administratively approved or denied, the responsible official shall notify the applicant in writing that the application is officially denied due to inaction.
  - b. If the application is of a type that must be acted upon by the Commission, the responsible official shall coordinate the application being placed on the agenda of the Commission, as applicable, and the application shall then be formally denied by an official action of the Commission, as applicable. The responsible official shall notify the applicant in writing that the application has been officially denied by the Commission due to inaction.
- (g) **Official Filing Date.** The 30-day time period established by State law, and by this Subdivision Ordinance, for processing and deciding an application shall commence on the official filing date. The official filing date shall be defined as the date the application is deemed complete by the responsible official in the manner prescribed by Section 3.03(c).

### **SECTION 3.04 APPLICATION PROCESSING, ACTION, AND NOTIFICATION FOLLOWING DECISION**

- (a) **Action By Responsible Official.** The responsible official for an application shall initiate internal (i.e., City) review and assessment of the application following the City's development review procedures. The responsible official shall also, to the extent possible, work with the applicant by advising on and communicating revisions that may be necessary to bring the application into compliance with City regulations in preparation for consideration by the appropriate decision-maker.
- (b) **Decision.** The decision-maker for the application shall approve, approve with conditions, or deny the application within the time period prescribed by this Subdivision Ordinance.
- (c) **Conditions Attached.** The decision-maker may attach such conditions to the approval of an application as are reasonably necessary to ensure compliance with all applicable requirements of this Subdivision Ordinance.
- (d) **Notification of Decision.** The City shall send written notice within fourteen (14) calendar days following the date of a decision on an application.
- (e) **Notification of Appeal.** Whenever appeal is taken from a final decision on an application following a public hearing, or whenever the City is to consider revocation of an application which was obtained following a public hearing, personal notice of the appeal or revocation proceeding shall be provided to the applicant.

### SECTION 3.05 PUBLIC HEARINGS

- (a) **Setting the Hearing.** When the responsible official determines that an application is complete and that a public hearing is required by this Subdivision Ordinance (see Sections 4.07(b) and 4.09(c)) or by State law, the official shall cause notice of such hearing to be prepared and made in accordance with State law. The time set for the hearing shall conform to the time periods required by Sections 4.07(b) and 4.09(c) in this Subdivision Ordinance and by State law.
- (b) **Conduct of the Hearing.** The public hearing shall be conducted in accordance with State law. Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name and address, and if appearing on behalf of an organization, state the name of the organization for the record.
- (c) **Record of Proceedings.** The board/commission conducting the hearing shall record the proceedings using standard municipal record-keeping procedures.

### SECTION 3.06 AMENDMENTS & EXPIRATION

- (a) **Amendments/Revisions to an Approved Application.** Unless another method is expressly provided by this Subdivision Ordinance, any request to amend or revise an approved application shall be considered a new application, which must be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.
- (b) **Time of Expiration.**
  - (1) Unless otherwise expressly provided by this Subdivision Ordinance, an approved application shall automatically expire two (2) years following the approval date of the application (see Section 5.01(g) for expiration of Construction Plans), and shall become null and void, and all activities under the application thereafter shall be deemed in violation of this Subdivision Ordinance, if:
    - a. The applicant fails to satisfy any condition that was imposed by this Subdivision Ordinance or as part of the approval of the application or that was made under the terms of any Development Agreement, within the time limits established for satisfaction of such condition or term; or
    - b. The applicant fails to submit a subsequent complete application required by this Subdivision Ordinance within the time so required; or
    - c. An Improvement Agreement (Section 5.04) is not approved for the development.
  - (2) If no time limit for satisfaction of conditions is specified in the decision on the application, the time shall be presumed to be two (2) years following the date the application was approved, except as provided in Section 3.07.



- (3) Except as provided in Section 3.07, or upon a different date being determined pursuant to a vested rights petition, an application approved prior to the effective date of this Subdivision Ordinance shall expire in accordance with the terms of the regulations in effect at the time the application was filed.
- (c) **Effect of Expiration.** Upon the expiration of an approved application, all previously approved applications for the same land shall also expire on the expiration date if the filing of an application was required to avoid expiration for the previously approved application(s), except as provided in Section 3.07. Thereafter, a new application must be submitted for consideration and approval subject to regulations in effect at the time the new application is filed.

### **SECTION 3.07 EXPIRATION FOR PROJECTS APPROVED PRIOR TO SEPTEMBER 1, 2005**

- (a) **Two-Year Expiration Established.** Notwithstanding any other provision of this Subdivision Ordinance, for any approved application for which no expiration date was in effect on September 1, 2005, an expiration date of two (2) years following the date of approval of the application shall apply, unless the applicant files a written petition before such date for a vested rights determination pursuant to Section 9.03 alleging that progress has been made toward completion of the project for which the application subject to expiration was filed. If a vested rights petition is timely filed and subsequently approved, the City Council shall determine the expiration date of the application in deciding the petition.
- (b) **Five-Year Expiration Established.** Notwithstanding any other provision of this Subdivision Ordinance, once an application has expired under Section 3.07(a), all previously approved applications for the same land also shall expire no later than five (5) years following the date of filing of the first application for the project for which the expired application was filed, unless the applicant files a written petition before such date for a vested rights determination pursuant to Section 9.03. If a vested rights petition is timely filed and subsequently approved, the City Council shall determine the expiration date of the previously approved applications in deciding the petition.